



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D. C. 20536



Public Copy

FILE [REDACTED] Office: Texas Service Center

Date:

MAY 10 2000

IN RE: Applicant:



APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

IN BEHALF OF APPLICANT: Self-represented

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

MAY 10 2000 - 01 CCAH

DISCUSSION: The application was denied by the Director, Texas Service Center, who certified his decision to the Associate Commissioner, Examinations, for review. The director's decision will be affirmed.

The applicant is a native and citizen of Cuba who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Adjustment Act of November 2, 1966. This Act provides for the adjustment of status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959, and has been physically present in the United States for at least one year, to that of an alien lawfully admitted for permanent residence if the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.

The director determined that the applicant failed to submit additional evidence as had been requested. The director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

In response to the notice of certification, the applicant states that he did submit the evidence requested by the Service. He submits additional evidence.

The applicant was requested on August 28, 1998, to submit: (1) a letter of clearance from the Dade County Police Department or sheriff's office; (2) if he has ever been arrested, to submit a copy of all arrest records and the court's final disposition of each case; (3) a copy of his birth certificate; (4) a copy of his Form I-94 (Arrival/Departure Card). Additionally, because the applicant's medical examination report (Form I-693) indicates that he is not current for recommended age-specific immunizations pursuant to section 212(a)(1)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(1)(A)(ii), the applicant was also requested to submit a Form I-693 showing that he is current for the immunizations or reasons for a waiver of this requirement. Because the applicant failed to comply, the director denied the application.

The applicant subsequently submitted to the Administrative Appeals Office: (1) a letter from the Circuit Court of the Eleventh Judicial Circuit, Dade County, Florida, indicating he has no criminal record with that court; (2) a copy of his Cuban birth certificate; (3) a copy of his Form I-94; and (4) Form I-693, again showing that he is not current for recommended age-specified immunization.

On September 17, 1999, the applicant was accorded an additional 60 days in which to submit a certified letter of clearance obtained directly from the Dade County Police Department or Sheriff's Office, and a Form I-693 showing that he is current for the

immunizations or that he is eligible for a waiver of this requirement pursuant to section 212(g)(2) of the Act, 8 U.S.C. 1182(g)(2). However, it has been well over seven months since the request, and no additional evidence has been received in the record of proceeding.

Pursuant to section 291 of the Act, 8 U.S.C. 1361, the burden of proof is upon the applicant to establish that he is eligible for adjustment of status. He has failed to meet that burden. Therefore, the decision of the director to deny the application will be affirmed.

ORDER: The director's decision is affirmed.